

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LINDA FAIRSTEIN,

Plaintiff,

20-cv-8042 (PKC)

-against-

ORDER

NETFLIX INC., AVA DUVERNAY and
ATTICA LOCKE,

Defendants.

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CASTEL, U.S.D.J.

The Court has presided over this action from its commencement, including ruling on a motion to dismiss, a fact-intensive motion for summary judgment, and fact-intensive motions in limine. It has reviewed the parties' submissions, including the proposed Joint Pre-Trial Order.

Exercising the discretion vested in a trial judge under Rule 16 to "establish[] a reasonable limit on the time allowed to present evidence" and to "facilitat[e] in other ways the just, speedy, and inexpensive disposition of the action," Rule 16(c)(2)(O) & (P), Fed. R. Civ. P., the Court sets the following limitations on the presentation of evidence:

1. Exclusive of jury selection, the charge conference, and the Court's delivery of preliminary and final instructions to the jury, and the playing of the

full series that is the subject of this action (which will take approximately 300 minutes), the following time limits shall apply:¹

- a. Plaintiff shall have 1,560 minutes (26 hours) for the presentation of argument and evidence, inclusive of direct and redirect of witnesses who are called by plaintiff, cross-examination of defendants' witnesses, the reading or playing of depositions, opening statement (which may not exceed 20 minutes), closing argument (which may not exceed 50 minutes) and rebuttal summation (which may not exceed 15 minutes) and a rebuttal case, if any.
- b. Defendants shall have 1,560 minutes (26 hours) for the presentation of argument and evidence, inclusive of direct and redirect of witnesses who are called by defendants, cross-examination of plaintiff's witnesses, the reading or playing of depositions, opening statement (which may not exceed 20 minutes) and closing argument (which may not exceed 50 minutes).

2. Each side shall designate a timekeeper. The respective timekeepers shall meet and confer and submit their agreed-upon calculation, and any disputes relating thereto shall be presented to the Court at the beginning of the next trial day.

4. In the course of trial, the Court reserves the right to modify or extend the limits for good cause and in the interest of justice.

¹ The jury's day runs from 10 a.m. to 5 p.m., a period of 7 hours from which is deducted 1 hour for lunch and two breaks, leaving approximately 330 minutes (5 hours, 30 minutes) per day for the presentation of evidence. The Court anticipates sitting five days per week.

Excluding a possible rebuttal case, a witness shall only testify once at trial. Accordingly, a party may go beyond the scope of the direct in the cross-examination of a witness, provided that the party has listed the individual as a trial witness.

The parties shall meet and confer on deposition designations and objections to designated portions of depositions. The parties may submit hard copy color-coded transcripts to the Court. The Court anticipates ruling on the objections in real time as the deposition is played or read to the jury.

The parties may contact the Court's law clerk, Mr. Jeff Eldridge, to arrange to upload the Court's courtesy copies of trial exhibits prior to trial. The parties shall have one hard copy set of exhibits in the Courtroom. The Court does not have secure storage facilities. Each party may leave no more than five boxes in the Courtroom at their own risk.

The parties shall meet and confer on the loading of all admitted trial exhibits onto a laptop provided by the parties for use by the jury in the course of deliberations, together with an agreed-upon index to the exhibits. The parties shall make arrangements for the playing of the full series at the times ordered by the Court.

Pursuant to Rule 615, Fed. R. Evid., the Court ORDERS that any person who is expected to testify as a witness shall be excluded from the courtroom and precluded from accessing trial testimony until after the witness has completed his or her testimony, except the plaintiff, the two individual defendants and a corporate representative of Netflix who shall be designated prior to trial. The Court further ORDERS that no person shall disclose the content of a trial witness's testimony to a prospective witness who has not yet testified.

Counsel is welcome to contact the Court's audio-visual staff regarding courtroom technology and may arrange a Courtroom walk-through with the undersigned's Courtroom

Deputy. The Court will meet with counsel in Courtroom 11D at 9:15 a.m. on June 10, 2024, immediately prior to the commencement of jury selection.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
May 23, 2024